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(1) The Travancore-Cochin Court of Wards Bill, 1956.

(2) The Travancore-Cochin Bhoodan Yagna Bill, 1956.

(3) The Travancore-Cochin Malayala Brahmin Bill.

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THE TRAVANCORE COCHIN COURT OF WARDS BILL, 1956.

(*Report of the Select Committee.*)

The Select Committee to which the bill was referred considered the Bill clause by clause and now submit this, their report, with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette dated 16th August 1955.

3. The Bill was introduced in the Assembly on the 5th October 1955 and the motion for reference to the Select Committee was adopted on that date.

4. *Clause* 34: The Committee decided to mention specifically Tamil also as one of the languages in which the notice under the clause may be published.

The other changes made by the Committee are only verbal.

A. J. JOHN,
Chairman of the Select Committee.

Trivandrum,
20th January 1956.

V. KRISHNAMOORTHI,
Secretary, Legislative Assembly.

THE TRAVANCORE COCHIN COURT OF WARDS BILL, 1956.

A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO COURT OF WARDS

(As reported by the Committee)

Preamble. Whereas it is necessary to consolidate and amend the law relating to the Court of Wards;

Be it enacted in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY.

1. *Short title, extent and commencement.* (1) This Act may be called the Travancore-Cochin Court of Wards Act, 1956.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once.

2. *Definitions.* In this Act, unless the context otherwise requires,—

(a) "Collector" means the chief officer in charge of the revenue administration of a District and includes an acting or officiating Collector and also any officer appointed by the Government to exercise the functions of the Collector;

(b) "Court" means the Court of Wards;

(c) "Minor" means a person who, under the provisions of the Indian Majority Act, 1875 (Central Act IX of 1875), has not attained majority;

(d) "Proprietor" means a person who owns or who has a life interest in land either solely or as a co-sharer;

(e) "Ward" means a person who has been made a ward of the court under Section 17.

CHAPTER II.

THE COURT OF WARDS.

3. *The Court of Wards.* The Board of Revenue shall be the Court of Wards and, for the purposes of this Act, Collectors shall be subject to the control of the Court of Wards.

4. *Control of Government.* The Court of Wards shall be subject to the control of the Government and the Government may, if they think fit, revise, modify or reverse any order passed or proceedings taken under this Act, whether a petition is presented against such order or proceedings or not.

5. *Power of Court to regulate procedure.* (1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, it shall be lawful for the Board of Revenue, subject to the approval of the Government, to declare what portion of the business of the Court may be disposed of by a single member of the Board and what portion shall be reserved for the decision of the full Board. Every such declaration shall, after approval by the Government, be notified in the Gazette.

(2) All orders made and decisions passed by one member of the Board or by the full Board in accordance with a declaration made under sub-section (1) shall be held to be the orders and decisions of the Court of Wards, and the same shall not be deemed invalid by reason that subsequent thereto the said declaration was disapproved by the Government. Where there is a difference of opinion between the members of the Board sitting as the Court on any point the decision of the majority shall prevail and, when there is no majority, the point in difference shall be referred to the Government whose decision thereon shall be deemed to be the decision of the Court on the point.

(3) It shall in all cases be lawful for the officer appointed by the Government as Secretary to the Court of Wards to sign on behalf of the Court.

6. *Powers of Court how exercised.* The Court may exercise all or any of the powers conferred on it by this Act through the Collector in whose District any part of the property of the ward may be situated or through any other person whom it may appoint for the purpose; and may confer any of its powers on any such Collector or person and withdraw any powers so conferred.

CHAPTER III.

Assumption of Superintendence of Persons and Property.

7. *Disqualification.* The following proprietors shall be deemed to be disqualified for the management of their property:—

(a) minors;

(b) proprietors adjudged by a competent Civil Court to be of unsound mind and incapable of managing their property;

(c) proprietors declared by the Government to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them unfit to manage their property.

8. *Immediate protection of disqualified heirs.* Whenever a Collector receives information that a proprietor of land situated in his District has died, and he has reason to believe that the heir of such proprietor is, or should be declared to be disqualified under Section 7—

(a) he may, with the previous sanction of the Court, take such steps or make such order as he thinks proper for the temporary custody and protection of the property which he has reason to believe to belong to the heir, and

(b) if the heir be a minor, he may direct that the person, if any, having custody of the minor, shall produce him or cause him to be produced, at such place and time, and before such person as he appoints and may make such order for the temporary custody and protection of the minor as he thinks proper:

Provided that female minors who ought not to be compelled to appear in public shall be produced in accordance with the manners and the customs of the country.

9. *Recovery of expenditure.* All expenses incurred by a Collector, acting under Section 8 shall, whether the property is afterwards taken under the superintendence of the Court or not, form a charge upon the property concerned, and shall be recoverable from the owner of such property, or the person whom the Collecter shall find to be in possession of such property, as an arrear of land revenue.

10. *Report by Collector.* Whenever any Collector, after making such enquiry as he deems necessary, has reason to believe that any proprietor in his District is or should be declared to be, disqualified under Section 7, he shall submit a detailed report to the Court setting forth all the facts and circumstances of the case:

Provided that in the case of proprietors of lands the annual value of which is less than one thousand rupees, the Collector need not report the case to the Court unless he is of opinion that the Court ought to assume the superintendence of the property:

Provided also that the Court or the Government may call for a report in any case if it deems fit.

Explanation.—The annual value shall be taken to be the full pattom assessment on the land at the last revenue settlement; and in case there be no such assessment, the annual value shall be such as is determined by the Government or under rules passed by the Government.

11. *Proprietor to be given opportunity to be heard and to adduce evidence.* (1) Before reporting to the Court under Section 10 that a proprietor ought to be declared to be disqualified under clause (c) of Section 7, the Collector shall give notice

to such proprietor and afford him a reasonable opportunity to be heard and to adduce evidence.

(2) All questions as to whether the provisions of this section have been complied with shall be decided finally by the Government.

12. *Report by Court.* The Court shall consider the Collector's report, and shall report the case to the Government with its recommendation and, pending the receipt of orders, shall have power to take such steps as it may deem necessary for the protection of the person and property of the proprietor in question.

13. *Government may declare proprietor disqualified and direct Court to assume superintendence.* The Government, on receipt of the Court's recommendation, may, in any case falling under clause (c) of Section 7, declare the proprietor to be disqualified and in any case falling under Section 7, may order the Court to assume the superintendence of the person or property of the proprietor or of both.

14. *Proprietor not to be declared disqualified under Section 7 (c) unless on ground of public interests.* The Government shall not declare any proprietor to be disqualified under clause (c) of Section 7 unless they are satisfied that it is expedient in the public interests that his property should be managed by the Court and a statement to this effect shall be inserted in the declaration made by the Government as provided in Section 13.

15. *Provisions to meet cases of undivided familes and co-sharers.* (1) The Government shall not, except under Section 16, order the Court to take the property of any Marumakkathayam Tarwad or any undivided Hindu family under its superintendence unless all the Tarwad members or the co-parceners, as the case may be, are or are declared to be disqualified under Section 7.

(2) When two or more proprietors are co-sharers, otherwise than as co-parceners in an undivided Hindu family or as members of a Marumakkathayam Tarwad and one of such co-sharers is or is declared to be disqualified under Section 7, the Government may order the Court to institute a suit for partition on behalf of the disqualified proprietor and to take under its superintendence the property allotted to such proprietor in the partition.

16. *Application by Proprietor himself.* (1) A proprietor may make application to the Government to have his property placed under the superintendence of the Court, and the Government may, on being satisfied that it is expedient in the public interests to preserve the property of such proprietor for the benefit of his family and that the said property is of such value that economical management by the Court is practicable, make a declaration

to that effect and order the Court to assume the superintendence of such property.

(2) In the case of a Marumakkathayam Tarwad or a Hindu undivided family an application signed by a majority of the members of such Tarwad or family shall, for the purposes of sub-section (1), be deemed to be an application by a proprietor in respect of the whole property of the Tarwad or family.

Explanation:—Nothing in this section shall be deemed to prevent any member of such Tarwad or family not signing such application from obtaining partition of his share whether by suit or otherwise.

17. *Notification of assumption of superintendence.* (1) Whenever under Section 13 or Section 16 the Government orders the Court to take under its superintendence the person or property of a proprietor or both, such order of the Government, together with any declaration made under the aforesaid sections, shall be notified in the Gazette. The notification shall specify the Collector who shall discharge the duties imposed upon a Collector by this Act in respect of such person or property or both, as the case may be.

(2) Such proprietor shall be deemed to have become a ward under the Court from the date of the said order of the Government and the superintendence of his person or property or of both shall take effect from the said date, and, as to property, shall extend to all movable and immovable property belonging to him at the date of the order, or to which he shall afterwards become in any way entitled whilst he continues under such superintendence:

Provided that it shall be in the discretion of the Court to assume or refrain from assuming the superintendence of any property which the ward may acquire otherwise than by inheritance subsequent to the date of order of the Government under Section 13 or Section 16.

CHAPTER IV.

MANAGEMENT AND GUARDIANSHIP.

18. *Collector to take charge of ward's property.* When the Court has assumed the superintendence of the property of a ward, the Collector specified in the notification under Section 17 or, if so directed by the Court, the Collector of the District in which any part of the property is situated shall take possession and custody of such property on behalf of the Court.

19. *Powers of the Collector in so doing.* It shall be lawful for such Collector—

(*a*) to order any person in possession of any movable property to the possession of which the ward is entitled or of any

accounts or papers relating to the property of such ward, to deliver up such movable property, accounts or papers ;

(b) in case there is reason to believe that any movable property to the possession of which the ward is entitled, or any accounts or papers relating to the property of the ward are to be found in any room, box or receptacle within any house in the actual possession of the ward, to break open such room, box or receptacle or authorise the same to be broken open for the purpose of searching for such property, accounts or papers ;

(c) to order any person who is or has been in the employ of the ward, and any person who was in the employ of the deceased proprietor, if any, from whom the ward derives his title to attend before him for examination, and to defray the necessary expenses of any person so attending out of the assets of the estate ;

(d) to order all holders of tenures and under-tenures on the ward's property to produce their titles before him.

20. *Allowances for ward and family*. The Court may determine what sums shall be allowed for the expenses of the ward and of his family and dependants and of those who are entitled to be maintained out of the property taken possession of on behalf of the Court.

21. *Custody, residence, education and marriage* of *ward or minor relatives.* The Court may make such orders and arrangements, as to it may seem fit, in respect of the custody, residence, education and marriage,—

(a) of any ward whose person is for the time being under its superintendence ;

(b) of any minor child, minor brother or minor sister of such ward, or minor or incapacitated Seshakaran or co-parcener, as the case may be of such ward who, in the opinion of the Court is entitled to maintenance at the charge of the ward's estate ;

(c) of the ward's next male heir being a minor and also so entitled to maintenance.

22. *Appointment, etc.*, of *managers and guardians.* (1) The Court may appoint managers for the property, and guardians for the person, of any ward, and may control or remove any manager or guardian so appointed :

Provided that it shall not appoint a guardian for any person who has become a ward in pursuance of an order under Section 16.

(2) Any appointment made under this Section shall terminate when the Court ceases to exercise superintendence over the person for whom a guardian, or over property for which a manager has been appointed.

23. *Collector to act if there are none.* If no manager of the property or guardian of the person of a ward is appointed by the Court, or the office is temporarily vacant, the Collector specified in the notification under section 17, or any other Collector whom the Court may appoint in this behalf, shall be competent, under the control of the Court, to do anything that might be done by such manager or guardian.

24. *Who may and may not be a guardian.* (1) No person being the next legal heir of a ward or appearing to have a direct or indirect advantage in the death or continued disqualification of such ward, shall be appointed guardian of such ward:

Provided that the mother of a ward, or any person appointed guardian by the will of a person authorised to make such appointment may be appointed guardian by the Court at its discretion.

(2) A female guardian shall be appointed for a female ward, and a male guardian for a male ward above 7 years of age, unless in any case, the Court, for special reasons, shall direct otherwise:

Provided that no guardian shall ordinarily be appointed for a female ward if she has an adult husband.

25. *Duties of guardians.* (1) A guardian appointed under section 22 shall be charged with the custody of the ward, and, subject to the control of the Court, shall make suitable provision for his maintenance and health, and, if he be a minor, for his education and for such other matters as are required by the personal law to which the ward is subject and shall—

(*a*) give such security (if any), as the Court thinks fit, for the due performance of his duty;

(*b*) submit such accounts as the Court may direct;

(*c*) pay the balances due from him thereon;

(*d*) continue liable to account to the Court after he has ceased to be guardian for his receipts and disbursements during the period of his guardianship;

(*e*) obtain the sanction of the Court to any act which may involve expense, not previously sanctioned by the Court.

(2) The guardian shall be paid such allowance out of the property of the ward as the Court thinks fit.

26. *Powers of manager.* Every manager appointed by the Court shall have power, subject to the control of the Court, to collect the rents of land placed under his charge as well as all other moneys due to the ward, and to grant receipts therefor, and may, under the orders of the Court, grant or renew such leases as may in his opinion be necessary for the good management of the property, and do all such lawful acts as may be generally or specially authorised by the Court to do for the good management of the property.

27. *Duties of manager.* (1) Every manager appointed by the Court shall manage the property placed under his charge diligently and faithfully and shall—

(a) give such security, with such sureties, if any, as the Court thinks fit, for the due discharge of the trusts of his office and for the due account of all property and moneys which come into his control or possession by reason of his office;

(b) keep such accounts in such form and submit them at such times as the Court may direct;

(c) deal with all moneys received by him in such manner as the Court may direct;

(d) obtain the sanction of the Court to any act which may involve the property in expense not previously sanctioned by the Court;

(e) be responsible for any loss occasioned to the property under his management by his negligence or wilful default; and every such loss shall be recoverable from him and from his sureties, if any, as an arrear of land revenue;

(f) continue liable to account to the Court after he has ceased to be manager for his receipts and disbursements during the period of his managership.

(2) The manager shall be paid such allowance out of the property of the ward as the Court thinks fit.

28. *Employees of Court deemed to be public servants.* Every guardian, manager, or other servant of the Court shall be deemed to be a "public servant" within the meaning of sections 161 to 165 of the Indian Penal Code, 1860 (Central Act XLV of 1860) and in the definition of "legal remuneration" contained in the said section 161 of the Indian Penal Code, 1860 (Central Act XLV of 1860) the word "Government" shall, for the purposes of this section, be deemed to include the Court.

29. *Regulation of expenditure.* Unless the Court otherwise directs, all moneys received by or on behalf of the Court on account of the property of any ward, shall be employed in meeting the charges included in Class I hereinafter specified, before it is employed in meeting the charges in Classes II and III hereinafter specified, and in meeting the charges in Class II before it is employed in meeting those in Class III.

Class I.

Charges necessary for the maintenance, residence, education, marriage and indispensable religious observances of the ward and his family and of those in respect of whom such charges have to be paid out of the property of the ward.

Charges necessary for the management and supervision of the property of the ward.

Charges on account of Government revenue and of all cesses and other public demands due in respect of such property, or any part of such property.

Class II.

Charges on account of rent, cesses or demands due to any superior land-holder in respect of any land held on behalf of the ward.

The liquidation of debts payable by the ward out of the property taken charge of by the Court.

Expenses necessary to protect the interests of the ward in the civil courts or otherwise.

The maintenance in efficient condition of the estates, buildings and other immovable property and the suitable upkeep of the furniture, equipage, live-stock and other movable property belonging to the ward.

Class III.

The payment of such charges for the religious observances of the ward and his family and of such religious, charitable and other allowances, and of such donations befitting the position of the ward's family, as the Court may authorise to be paid.

The prevention and relief of distress among the ward's tenantry.

The improvement of the land and property of the ward and the benefit of the ward and his property generally.

30. *Surplus how to be dealt with.* Any surplus which remains after providing, so far as the Court deems fit, for the objects mentioned in section 29, shall be applied in the purchase of other landed property or invested at interest on the security of—

(a) promissory notes, debentures, stock and other securities of the Government of Travancore-Cochin, or of the Government of India or the Government of any other State in India;

(b) stock or debentures of, or shares in, companies, the interest whereon has been guaranteed by the Government of India;

(c) such other securities, stock, or shares guaranteed by the Government of Travancore-Cochin or the Government of India or the Government of any other State in India as the Court shall deem fit; or

(d) first mortgages of immovable property situate in the State, provided that the property is not a leasehold for a term of years and that the value of the property exceeds by one-third or, if consisting of buildings, exceeds by one-half, the mortgage money.

31. *Disabilities of wards.* (1) A ward shall not be competent—

(a) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the Court, or to enter into any contract or to make any acknowledgment involving him in pecuniary liability personally or in respect of such property; but nothing in this clause or in Section 21 shall be deemed to affect the capacity of a ward to enter into a contract of marriage:

Provided that he shall not incur in connection therewith any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court may in writing, declare to be reasonable;

(b) to grant valid receipts for the rents and profits arising or accruing from such property or for debts or other moneys due to the estate;

(c) to adopt or to give a written or verbal permission to adopt, without the consent of the Court;

(d) to dispose of his property by will without the consent of the Court:

Provided, firstly, that the Court shall not withhold its consent under clause (c) or clause (d) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward, and does not appear likely to cause pecuniary embarrassment to the property, or to lower the influence or respectability of the family in public estimation:

Provided, secondly, that the Court may confirm a will or an adoption made, or a permission to adopt given without its previous consent:

Provided, thirdly, that the provisions of clauses (c) and (d) shall not apply to any proprietor in regard to whose property a declaration has been made under Section 16.

(2) No claim under Section 68 of the Indian Contract Act, 1872 (Central Act IX of 1872) shall be enforceable against the property of a ward, which is under the superintendence of the Court, but the Court may, in its discretion satisfy in whole or in part any such claim.

32. *Powers of Court as to property under its superintendence.* The Court may mortgage or sell the whole or any part of any property under its superintendence and may give leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make remissions of rent or other dues, and may generally pass such orders and do such acts not inconsistent with the provisions of this or any other Act for the time being in force as it may judge to be for the advantage of the ward or for the benefit of the property.

33. *Establishments and distribution of charges.* The Court may order such establishments to be employed and charges to be incurred as it shall consider requisite for the care and management of the person and properties under its superintendence, and generally for all the purposes of this Act, and may order that such charges shall be borne by and distributed amongst the said properties in such proportions as it deems fit.

CHAPTER V.

ASCERTAINMENT AND SETTLEMENT OF DEBTS.

34. *Notice calling upon claimants to notify claims.* (1) On the publication of a notification under section 17, the Collector therein specified may, at any time with the previous sanction of the Government, publish in the Gazette a notice in English and in Malayalam or Tamil and in such other language as he may consider expedient calling upon all persons having pecuniary claims, whether immediately enforceable or not against the ward or his property to notify the same in writing to the Collector within six months from the date of such notification.

(2) The notice shall also be published at such places and in such other manner as the Court may, by general or special order, direct and shall be sent by registered post to every person who is known to the Collector as having a pecuniary claim against the ward or his property and of whose address the Collector is credibly informed.

(3) The Government may at any stage of the proceeding under this section and sections 35 and 37 invest any person either by name or in virtue of his office with the powers of a Collector for any or all of the purposes of these sections.

Explanation:—A claim shall be deemed to be pecuniary for the purpose of this section and sections 35 and 38 notwithstanding that a suit for its enforcement or a reference of such claim to arbitration is pending or that a decree or award has been passed establishing the same.

35. *Claimants to furnish full particulars and documents.* (1) Every such claimant shall, within the period prescribed by section 34, notify to the Collector in writing his claim with full particulars thereof:

Provided that any claim presented after the expiration of such period and within a further period of six months may be admitted if the claimant satisfies the Collector that he had sufficient cause for not notifying the claim at an earlier date.

(2) Every document (including entries in books of account) in the possession of or under the control of the claimant on which he founds his claim, shall be produced before the Collector with the statement of claim or within such time after the preferring of the claim as may be allowed by the Collector in that behalf:

Provided that if the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Collector a certified copy of the decree and a certificate from the court which passed or is executing the same declaring the amount recoverable thereunder or a true copy of the award and a statement of the sum recoverable thereunder, as the case may be; and if the claim is pending adjudication in any court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint or a true copy of the reference to arbitration, as the case may be.

(3) It shall be lawful for the Collector to require the production by any claimant of such of the documents in his possession or power relating to his claim other than the documents, if any, produced under sub-section (2) as the Collector may consider necessary.

(4) Unless the Collector shall otherwise direct, every document produced under this section shall be accompained by a true copy thereof. The Collector shall mark the original document for the purpose of identification and after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

36. *Pecuniary claim of Government etc., not affected.* Nothing contained in sections 34 and 35 shall apply to any pecuniary claim of the Government or any local authority or to claims for maintenance or for wages or salaries due to servants.

37. *Claims admitted and disallowed.* The Collector shall after making such enquiry as he may deem fit, decide which claims notified or admitted under section 35 are to be allowed in whole or in part, and which are to be disallowed, and on his decision being confirmed by the Court, shall give written notice of the same to the claimants:

Provided that nothing herein contained shall be construed as precluding any claimant from continuing or instituting proceedings in any civil court in respect of any claim whether such claim be allowed or disallowed by the Court in whole or in part.

38. *Claims not notified cease to carry interest etc.* Every pecuniary claim against the ward or his property which has not been duly notified to, or admitted by the Collector under section 35, shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the expiration of the period prescribed by section 34 and shall not be paid until after the discharge or satisfaction of the claims notified or admitted under section 35.

39. *Inadmissibility in evidence of documents not produced.* No document in the possession or under the control of the claimant which should have been, but has not been produced, in

accordance with the requirements of section 35, shall be admissible in evidence against the ward or his representative in any suit brought by or against the claimant, or any person claiming under him, unless it be proved to the satisfaction of the civil court that it was not within his power to produce such document before the Collector.

40. *When mortgagee in possession may be dispossessed.* (1) When any property of a ward is in the possession of a mortgagee claiming to hold under a mortgage executed by the ward and dated within three years immediately preceding the commencement of the superintendence or of any person claiming under such mortgagee the Government may, on being satisfied that it is expedient in the public interests that the estate should be preserved and that such incumbrancer should deliver up possession of the mortgaged property, make a declaration to that effect, and direct the Court to take possession thereof; the Court shall thereupon by an order in writing, require such incumbrancer to deliver up possession of the same to the manager at the end of the then current financial year.

(2) If such incumbrancer refuses or neglects to obey such order, the Collector may, without resorting to a civil court enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

(3) If in the instrument of mortgage under which the incumbrancer is in possession of the property no rate of interest is specified, the Collector shall, in cases where the mortgage debt has been notified or admitted by him, offer to the incumbrancer the rate of interest which appears to him to be reasonable, and pass an order fixing the rate accordingly. Copy of the order shall be served upon the incumbrancer in the manner prescribed by the Code of Civil Procedure, 1908 (Central Act V of 1908) for the service of summons upon a defendant. If the incumbrancer be dissatisfied with the rate of interest so fixed, he may within three months from the date of service upon him of such order, institute a suit against the ward in a District Court within whose jurisdiction the property mortgaged or any portion thereof is situate, and the said court shall, if the mortgage debt has been notified or admitted as aforesaid pass a declaratory decree fixing such rate of interest as to it may seem reasonable. If no such suit be instituted within the said period, the incumbrancer shall be deemed to have agreed to the rate fixed by the Collector.

(4) If an incumbrancer is dispossessed under this section, the money due to him under the instrument of mortgage at the date of such dispossession together with subsequent interest on the unliquidated principal of the mortgage debt at the rate stipulated in the said instrument, and in the absence of such stipulation, at the rate determined as hereinbefore provided, shall subject to the provisions of section 38 and subject to the charges

specified in Classes I and II in section 29, excepting the liquidation of debts payable by the ward, and the provisions with reference to the upkeep of the furniture, equipage, livestock, and other movable property belonging to the ward be recoverable, together with any money which he may be legally entitled to add to the principal money on the security of the property mortgaged and of theirents and profits arising or accruing therefrom subsequent to the date of such dispossession, in the same manner as if he were a simple mortgagee, under the said instrument of snch property and of snch rents and profits.

(5) The Collector shall, as soon as conveniently may be, after the expiration of the financial year commencing with the date of such dispossession and of every snccessive financial year declare, snbject to the approval of the Court, the gross annual rents and profits realised from such property, the several heads of expenditure and the balance, and snch declaration shall be conclusive evidence of the statements therein contained. A copy of such declaration shall be furnished to the dispossessed incnmbrancer free of charge.

41. *Provisions regarding leases for insufficient consideration.* (1) When any property of a ward is in the possession of any person claiming to hold under a lease granted by the ward and dated within the three years immediately preceding the commencement of the superintendence or of any person claiming under such lessee, the Collector may inquire into the sufficiency of the consideration for which the lease was granted; and if such consideration appears to him inadequate, he may, with the previous sanction of the Court, give notice in writing that the lease shall determine at the end of the then current financial year unless the lessee or any one claiming under him pays or agree to pay such additional consideration as may be mentioned in such notice within a date therein fixed. If within such date such person does not pay or enter into an agreement to pay the additional consideration demanded or such other consideration as the Collector may be willing to accept, the lease shall determine at the end of the then current financial year:

Provided that such person may, if dissatisfied with the said notice of the Collector, institute a suit against the ward within three months from the date of service of such notice in a District Court within whose jurisdiction the property comprised in the lease or any portion thereof is situate for determining whether the consideration for the lease was adequate, and if not, whether the additional consideration demanded by the Collector or what other amount is reasonable.

(2) If the said District Court be satisfied that the lease was granted for adequate consideration and it is not shown to be otherwise invalid, it shall pass a decree establishing the validity of the lease.

(3) If the District Court holds the consideration for the lease to be inadequate, it shall determine the amount of additional consideration to be paid by the lessee.

(4) If no such suit be instituted or if on the institution of suit the lessee does not within one month from the date of the decree therein pay or enter into an agreement to pay the additional consideration determined by the District Court, the Collector may without resorting to a civil court enter upon the property and summarily evict therefrom such person and any other person obstructing or resisting on his behalf.

CHAPTER VI.

SUITS.

42. *Exercise of discretion not to be questioned in civil court.* No declaration made by the Government under section 13 or section 16 and no act done in the exercise of any discretionary power conferred by this Act shall be questioned in any civil court.

43. *Suit not to be instituted until after notice to the Collector.* (1) No suit relating to the person or property of any ward shall be instituted in any civil court until the expiration of two months after notice in writing has been delivered to or left at the office of the Collector specified in the notification under section 17.

(2) Such notice shall state the name and place of abode of the intending plaintiff, the cause of action and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 17.

44. *Suit or proceedings by or against ward.* In all suits or proceedings in any civil or revenue court the ward shall sue and be sued in his own name, and the manager of his property appointed under section 22 or if there is no such manager, the officer competent to act as manager under section 23 shall represent him, as next friend or guardian *ad litem*, as the case may be.

45. *Cost against Collector or manager how paid.* If in any such suit or proceedings any civil or revenue court shall decree any costs against the manager (or other officer competent to act as manager under section 23), the Court of Wards shall cause such costs to be paid out of any property of the ward, which for the time being, may be in its hands.

46. *Suits must be authorised by Court.* No suit shall be brought on behalf of any ward by the manager (or other officer competent to act as manager under section 23) unless authorised by some particular or general order of the Court:

Provided that a manager (or other officer as aforesaid) may file a plaint in order to prevent a suit from being barred by the law of limitation, but such suit shall not be further proceeded with until the consent of the Court has been obtained.

47. *Adjudication of civil disputes between two or more wards.* (1) When any question arises as between two or more wards of such a nature that an adjudication upon it by a civil court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the District in which a case might have been stated for the opinion of the civil court with regard to such matter under Order XXXV or Order XXXVI of the First Schedule of the Code of Civil Procedure, 1908 (Central Act V of 1908) to file in the civil court having jurisdiction a statement containing the point or points for determination.

(2) When such statement has been filed, the civil court shall appoint a guardian *ad litem* for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(3) The civil court may, if it thinks fit, amend the case so stated, and shall then proceed to hear and dispose of the case in the manner provided in Order XXXVI of the First Schedule of the Code of Civil Procedure, 1908, (Central Act V of 1908) for the hearing and disposal of cases stated for opinion under that Order.

CHAPTER VII.

Release of Persons and Property from Superintendence.

48. *Release from superintendence.* The Court may, with the previous sanction of the Government in all cases where superintendence has been assumed in pursuance of orders under section 13, at any time release from its superintendence the person or property of a ward or both and shall, save as provided in section 51, release from superintendence—

(a) the person and property of a ward disqualified under clause (a) of section 7 as soon as he ceases to be a minor;

(b) the person and property of a ward disqualified under clause (b) of section 7 as soon as it is found by a competent civil court that the disability has ceased;

(c) the person and property of a proprietor declared to be disqualified under clause (c) of section 7 as soon as the Government revokes its declaration that such proprietor is disqualified;

(d) the property of a Marumakkathayam Tarwad or of an undivided Hindu family and the person of every member or co-parcener therein as soon as any member or co-parcener, as the case may be, ceases to be disqualified under section 7.

49. *Release of estates taken under management under section 16 when debts cannot be liquidated within reasonable time.* (1) The Court may, with the previous sanction of the Government, at any time within two years from the date of the notification published under section 17 release from its superintendence on a day to be notified, the property of a person who has been made a ward of the Court in pursuance of an order under section 16, without liquidating any of his debts and liabilities, or after liquidating some of the debts and liabilities when the Court is satisfied that it is impracticable to liquidate within a reasonable time, all the debts and liabilities or such of them as have not been liquidated and in either case the legal incapacity of such ward shall cease on the date so notified :

Provided that with the previous sanction of the Government the Court may at any time release such property on application made to it by the proprietor or in the case of a Marumakkathayam Tarwad or undivided Hindu family on such application made by a majority of the members of such Tarwad or family.

(2) Whenever an encumbrancer is dispossessed under section 40 and his debt remains unliquidated at the time the Court releases from its superintendence the property of such ward under sub-section (1), the Collector shall replace the encumbrancer in possession.

(3) Whenever the property of a person is released under sub-section (1) from the superintendence of the Court, the provisions of sections 38 and 39 shall not apply to any of the debts and liabilities of the ward remaining unliquidated at the time when his property is so released.

(4) In computing the period of limitation applicable to a suit brought or application made against such persons or his legal representative after the Court has released his property under sub-section (1) the time during which the superintendence of the Court continued shall be excluded.

50. *When estate taken under management under section 16 may be made over to proprietor.* The Court may, with the previous sanction of the Government, replace any proprietor made a ward of the Court in pursuance of an order under section 16, in the management of his estate on a day to be notified if the debts and liabilities binding on his estate have been discharged, and the Court is satisfied that he will thereafter be competent to take charge of his estate and administer his own affairs and his legal incapacity shall cease on such date.

51. *Option to retain superintendence in certain cases.* When a ward dies or ceases to be disqualified before the debts and liabilities binding on his estate have been discharged, the Court may, with the previous sanction of the Government, retain the property under its superintendence until the debts and liabilities are discharged or for any shorter period, and when for the purpose of discharging such debts and liabilities the Court has

raised money on condition that it should retain the superintendence of the property until the money so raised is repaid, the Court shall not without the consent of the lender or his representatives withdraw from superintendence until the money so raised has been repaid:

Provided that, after the death of the ward, the Court shall not retain charge on account of any debt or liability which has been declared by a Civil Court not to be binding on the representatives of the deceased ward.

52. *Disabilities of proprietor in such cases.* If the Court retains the superintendence under Section 51 the person who has succeeded to the property or the person who has ceased to be disqualified shall in so far as the property in question is concerned be deemed to be a ward of the Court for the purposes of clauses (a) and (b) of sub-section (1) and sub-section (2) of Section 31.

53. *Appointment of guardian before release.* (1) when the Court decides to release from its superintendence the person and property of a minor it may before such release, by an order in writing, appoint any person to be the guardian of the person or property or both of such minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section the Court shall be guided by the provisions of Section 17 of the Guardians and Wards Act, 1890 (Central Act VIII of 1890).

(4) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardians and Wards Act, 1890 (Central Act VIII of 1890).

54. *Recovery of expenses after release.* Any expense incurred by the Court on account of any property under its charge, and not defrayed from such property, during the Court's superintendence may after the release of such property, be recovered as if it were an arrear of land revenue from any person into whose possession such property or any part thereof may have passed:

Provided that the sum so recovered from any such person shall not be greater than the value of any such property, which so passed into the possession of such person.

55. *Procedure when succession to ward's property is disputed.* Whenever, on the death of any ward, the succession to his property or any part thereof is disputed, the Court may either retain the superintendence of the property, until a claimant has established his title to the same in a competent Civil Court, or institute a suit of interpleader against all claimants.

56. *Notification of release from superintendence.* Whenever the Court releases any person or property from its superintendence the fact of such release shall be notified in the Gazette.

CHAPTER VIII.

PENALTIES.

57. *Abetting unsanctioned marriage of wards etc.* Whoever, without the previous consent of the Court, abets the marriage of any of the persons specified in clauses (a), (b) and (c) of section 21 shall be liable, en conviction before a Court of Sessions to a fine not exceeding Rs. 2,000 or to imprisonmeot for a term not exceeding six months or to both.

CHAPTER IX.

MISCELLANEOUS.

58. *Powers of Court in regard to religious endowments of which ward is hereditary trustee or manager.* If a ward is the hereditary trustee or manager of a temple, mosque or other religious establishment or endowment, the Court may make such arrangements, as it thinks fit for the discharge during the wardship of the ward's duties as trustee or manager provided that for the direct and personal management of the religious affairs of any such Institution, establishment or endowment, the Ccurt shall appoint suitable persons and the Court shall, as far as possible, restrict its superintendence te the preservation of the property belonging to the institution, establishment er endowment.

59. *Powers of persons holding inquiries.* In holding any inquiry under this Act, the Cellector or other persen authorised to hold such inquiry shall have all the pewers conferred on Revenue Officers by the Travancore-Cochin Revenue Enquiries and Summons Act, 1950 (Act XXX of 1950) and the provisions of that Act shall apply *mutatis mutandis.*

60. *Property under charge of Ceurt not liable to sale for arrears.* No immevable property under the superintendence of the Court shall be liable to sale on account of arrears of land revenue accruing while such estate is under the superintendence of the Court:

Provided that all such arrears of revenue shall be the first charge upen the sale-proceeds of any such property which may be sold for any other cause than for arrears of revenue.

61. *Power to make rules.* The Court may, with the previeus sanction of the Government, make rules consistent with this Act:—

(a) regulating the management ef property under the superIntendence of the Court; and

(b) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act.

62. *Servants of Court to be deemed public accountants.* Every manager or other servant of the Court entrusted with the receipt, custody or control of moneys or securities for money on behalf of the Court or with the management of any property under its superintendence shall be deemed to be a public accountant within the meaning of the Travancore-Cochin Public Accountants Act, 1951 (Act V of 1951) and shall be liable to be dealt with as if that Act applied to him.

CHAPTER X.

Repeal and Savings.

63. *Repeal and savings.* (1) The Travancore Court of Wards Act, 1110 (Act V of 1110) and the Cochin Court of Wards Act, XIII of 1097 are hereby repealed:

Provided that such repeal shall not—

(a) affect any right, privilege, obligation, or liability accrued, or incurred under the said Act; or

(b) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any of the said Act; or

(c) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the said Acts had not been repealed.

(2) All proceedings pending before the Court of Wards constituted under the enactments repealed under sub-section (1) at the commencement of this Act shall be deemed to be proceedings transferred to the Court of Wards constituted under this Act; and all such proceedings shall be proceeded with and continued by the Court of Wards constituted under this Act as if they were instituted under this Act.

V. Krishnamoorthi,
Secretary, Legislative Assembly.

THE TRAVANCORE-COCHIN BHOODAN YAGNA BILL, 1956.

(REPORT OF THE SELECT COMMITTEE)

The Select Committee to which the Bill was referred have considered the Bill and now submit this their report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette Extraordinary dated 10th March 1955.

3. The Bill was introduced in the Assembly on the 5th October 1955 and the motion for reference to the Select Committee was adopted on that date.

4. The Committee considered the Bill in the light of the provisions contained in the Madhya Pradesh Bhudan Yagna Act, 1953. The Committee were of opinion that it would be advantageous to adopt certain new features contained in that Act which has been recently amended in the light of the experience gained in the actual working of the Act. Accordingly the Committee have made suitable changes in the Bill. The changes made are explained below:

(1) *Preamble.*—This has been modified to conform to the changes made in the Bill with regard to distribution of land for community purposes also.

(2) *Clause 2.*—Sub-clauses (a) and (d) defining the terms 'Bhoodan holder' and 'Community purpose' have been newly added.

(3) *Clause 3.*—The clause embodies the provisions contained in clauses 3 and 7 of the original Bill in a modified form. The 'Bhoodan Yagna Committee' has been renamed as 'Bhoodan Yagna Board'.

(4) *Clause 4.*—According to clause 4 of the original Bill the Chairman and Members of the Committee are to be nominated by Shri Acharya Vinoba Bhave. But if the Chairman or the members are not nominated within the time prescribed, the Government can appoint them. According to the clause as modified the nomination of Chairman and members will be made by the Government. But Shri Acharya Vinoba Bhave should be consulted while making any nomination during his life time.

Provision has been newly made for the appointment of one of the members as Secretary of the Board and for the delegation of certain powers of the Board to the Secretary, any member or sub-committee of the Board.

(5) *Clause 5.*—The clause makes provision as to the terms of office of the Chairman, Members and Secretary, their resignation and the filling up of vacancies. One important change introduced is the proviso to sub-clause (1) according to which power is vested in the Government to remove the Chairman, any member or Secretary for certain reasons, after giving reasonable opportunity for explanation.

(6) *Clauses 6 to 10.*—are newly added. Clause 8 makes detailed provisions as to the conduct of business of the Board. According to clause 6 of the original Bill these matters have to be prescribed by rules.

(7) *Clause 11* is same as clause 5 of the original Bill.

(8) *Clause 12.*—This is based on clause 8 of the original Bill. However one change adopted is that while according to the original Bill the Bhoodan declaration has to be filed with the Tahsildar under the new provision it should be filed with the Board and the Board will forward it to the Tahsildar if it considers the gift acceptable.

(9) *Clause 13* is based on clause 9 of the original Bill. But a provision has been inserted to the effect that the Bhoodan declaration shall be published in the manner prescribed.

(10) *Clause 14* is similar to clause 10 of the original Bill. A provision has been newly added as sub-clause (4) to the effect that in cases where no objection is filed within the specified period the Bhoodan declaration may be confirmed by the Tahsildar.

(11) *Clause 15* is the same as clause 11 of the original Bill.

(12) *Clause 16.*—This clause which is new gives a right to any person aggrieved by a notification of the Tahsildar confirming a Bhoodan declaration to file a civil suit. Subject to the decision of the Civil Court, the notification of the Tahsildar shall be final.

(13) *Clauses 17 and 18* are also newly added.

(14) *Clause 19.*—This clause corresponds to clause 12 of the original Bill. Sub-clauses (1) (e) and (i) (f), the proviso to sub-clause (4) and sub-clause (5) are newly inserted. These provisions are necessary to cover cases where lands received in donation have already been granted to any person in pursuance of the Bhoodan Yagna.

(15) *Clause 20.*—This corresponds to clause 13 of the original Bill. According to the original clause the grantees of land acquire the rights and liabilities of the owner in respect of such land. According to the new clause the lands are to be granted to landless persons capable of cultivating the lands personally and the grantees shall have the rights provided for in the subsequent provisions of the Bill.

(16) *Clause 21.*—This is new. This clause lays down the conditions under which the grantee shall hold the land.

(17) *Clauses 22 to 24* are new.

(18) *Clause 25*:—This is same as clause 15 of the original Bill.

(19) *Clauses 26 to 28* are also newly inserted. Clause 28 empowers the Board to make regulations for certain matters pertaining to the administration of the Board.

(20) *Clause 29* corresponds to clause 16 of the original Bill. The provision for prescribing the scheme of Bhoodan Yagna has been omitted since detailed provision in this regard are contained in the Bill and the other provisions in the clause also give power to Government to regulate these matters by rules.

A. J. JOHN,
Chairman of the Select Committee.

Trivandrum,
24th January 1956.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE TRAVANCORE-COCHIN BHOODAN YAGNA BILL, 1956

(AS REPORTED BY THE COMMITTEE)

A Bill to facilitate the donation of lands in connection with the Bhoodan Yagna initiated by Sri Acharya Vinoba Bhave and to provide for the distribution of such lands to landless persons and for community purposes.

Preamble.—WHEREAS it is expedient to facilitate the donation of lands in connection with the Bhoodan Yagna initiated by Sri Acharya Vinoba Bhave and to provide for the distribution of such lands to landless persons and for community purposes;

Be it enacted in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Travancore-Cochin Bhoodan Yagna Act, 1956.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "Bhoodan holder" means a person who is registered in the revenue records as a Bhoodan holder under Section 21;

(b) "Bhoodan Yagna" means the movement initiated by Sri Acharya Vinoba Bhave for the acquisition of land through voluntary donations with a view to distribute it to landless persons and for community purposes;

(c) "Board" means the Board established under Section 3;

(d) "Community purpose" means any purpose which is for the good of the community of the village in general;

(e) "landless person" means a person holding no land or land less in area than the area which may be prescribed in this behalf;

(f) "owner" includes a tenant having a heritable and transferable interest in land; and

(g) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

ESTABLISHMENT OF THE BOARD

3. *Incorporation of Bhoodan Yagna Board.*—(1) There shall be established a Board by the name of the Travancore-Cochin Bhoodan Yagna Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable and shall, by the said name, sue and be sued.

(3) It shall be the duty of the Board to administer all lands vested in it for the benefit of the Bhoodan Yagna in accordance with the provisions of this Act.

(4) The Board shall for the purposes of Bhoodan Yagna perform such other functions and possess such other powers in respect of such lands as may be prescribed.

4. *Constitution of Board.*—(1) The Board shall consist of the following, namely:—

(a) the Chairman to be nominated by the Government; and

(b) four or more, but not exceeding nine, members to be nominated by the Government.

(2) One of the members shall be appointed as the Secretary of the Board by the Government.

(3) The nomination and appointment under sub-sections (1) and (2) shall, during the life time of Sri Acharya Vinoba Bhave, be made by the Government after consulting Sri Acharya Vinoba Bhave.

(4) The Board may delegate any of its powers and functions under the Act except the power to make regulations under Section 28 to the Secretary or any member or to a sub-committee of three or more of its members.

(5) The nomination of the Chairman and the members and the appointment of the Secretary shall be notified in the Gazette.

5. *Term of office of Chairman, member or Secretary.*—(1) A Chairman, member or Secretary nominated or appointed, as the case may be, under Section 4 shall hold office for a term of four years from the date of the notification under sub-section (5) of Section 4 and shall be eligible for renomination or reappointment:

Provided that if the Government are of opinion that the Chairman, any member or the Secretary of the Board has failed to perform or is unable to carry out his duties or has so abused his position as Chairman, Member, or Secretary of the Board as to render his continuance in office detrimental to the interest

of the public, they may, after giving him a reasonable opportunity for explanation, by notification in the Gazette, remove him from office.

(2) The Chairman, Secretary or any member of the Board, may, at any time, resign his office by submitting his resignation to the Government. No such resignation shall take effect until it is accepted.

(3) Any vacancy of a Chairman, Secretary or a member shall be filled in the manner prescribed. Any person nominated or appointed to fill the vacancy shall, notwithstanding anything contained in sub-section (1), hold office only so long as the person in whose vacancy he is nominated or appointed would have held office if the vacancy had not occurred.

6. *Validity of proceedings.*—Anything done or any proceedings taken under this Act shall not be questioned on account of any vacancy in the Board or any defect or irregularity in the nomination or appointment of the Chairman, any member or Secretary of the Board.

7. *Appointment of officers and servants.*—(1) The Board may appoint such officers and servants as it considers necessary for the efficient performance of its functions.

(2) The remuneration and other conditions of service of the officers and servants of the Board shall be such as may be determined by regulations.

8. *Conduct of business.*—(1) The Board shall meet and shall, from time to time, make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely:—

(a) the Chairman may, whenever he thinks fit, call special meetings;

(b) every meeting shall be presided over by the Chairman and, in his absence, by any member chosen by the meeting to preside for the occasion;

(c) all questions at any meeting shall be decided by a majority of the members present and, in case of equality of votes the Chairman or the member presiding shall have and exercise a second or casting vote; and

(d) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

(2) The quorum for the meeting shall be of four members.

(3) If at any meeting of the Board a quorum is not present, the Chairman or the member presiding shall adjourn the meeting to such other day as he may think fit; and the business, which would have been brought before the original meeting, if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present or not.

9. *Board's funds.*—(1) The Board shall have its own fund and may accept grants, donations, gifts or loans from the Central or the State Governments or any local authority or any individual or body, whether incorporated or not, for all or any of the purposes of the Board.

(2) All property, fund and all other assets vesting in the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

10. *Power to make contract.*—The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

11. *Dissolution of the Board.*—If at any time the Government are satisfied that—

(1) the Board has failed without reasonable cause or excuse to discharge the duties or to perform the functions imposed or assigned by or under this Act; or

(2) circumstances have so arisen that the Board is rendered unable or may be rendered unable to discharge the duties or to perform the functions imposed or assigned by or under this Act; or

(3) it is otherwise expedient or necessary to supersede the Board—

they may, after giving the Board a reasonable opportunity, for explanation, by notification in the Gazette—

(i) dissolve the Board and direct the reconstitution of the Board in accordance with the provisions of Section 4, or

(ii) supersede the Board for a period to be specified in the notification whereupon the following consequences shall ensue:—

(a) All the members of the Board as well as the Chairman shall forthwith be deemed to have vacated their offices.

(b) All or any of the functions of the Board and of its Chairman and Secretary may, during the period of supersession be exercised and performed as far as may be and to such extent as the Government may determine by such person or authority as the Government may appoint in that behalf.

CHAPTER III

DONATIONS OF LAND

12. *Donations of land to Bhoodan Yagna and competency of donor.*—(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of Section 15 any person being the owner of land shall be competent to donate and grant such land to the Board by filing with the Board a declaration in writing in that behalf (hereinafter called the Bhoodan declaration) in the manner prescribed.

(2) The Board shall, if it considers the donation acceptable, forward the Bhoodan declaration to the Tahsildar of the Taluk in which the land is situate.

13. *Publication of and investigation upon the declaration.*—Upon receipt of the Bhoodan declaration the Tahsildar shall—

(a) publish the same in such manner as may be prescribed calling for objections, and

(b) make a summary enquiry as to the right, title and interest of the donor in such land.

14. *Filing, hearing and disposal of objections.*—(1) Any person whose interests are affected by the Bhoodan declaration made under Section 12 may, within sixty days of the publication of the declaration, file objections to the same before the Tahsildar.

(2) The Tahsildar shall register every such objection and shall fix a date of hearing of which notice shall be given to the declarant and the objector.

(3) On the date of hearing or any other date to which it may be postponed, the Tahsildar shall proceed to investigate and dispose of the objections and shall, subject to the provisions of Section 15—

(a) either confirm the Bhoodan declaration; or

(b) supersede the same;

by notification in the prescribed manner;

(4) If no objection is filed within the period specified in sub-section (1), the Tahsildar may confirm the Bhoodan declaration, by notification in the prescribed manner.

(5) If the Tahsildar confirms the Bhoodan declaration, then, notwithstanding anything contained in any law for the time being in force, all the rights, title and interest of the donor in such land shall stand transferred and vest in the Board for the purposes of the Bhoodan Yagna, from the date of the notification under sub-section (3), or sub-section (4) as the case may be.

(6) Where the Bhoodan declaration is superseded by the Tahsildar under sub-section (3), the donation shall stand cancelled and the donor shall be deemed to continue to have all his rights, title and interests in such land as if no such donation was made.

15. *Lands which cannot be donated.*—Notwithstanding anything contained in any law for the time being in force an owner shall not for the purposes of this Act, be entitled to donate the land falling in any of the following classes, namely:

(a) lands which on the date of donation are recorded or by usage treated as common pasture lands, cremation or burial grounds, tank, pathway or threshing floor, and

(b) such other lands as the Government may by notification specify.

16. *Order of Tahsildar final, subject to civil suit.*—Any person aggrieved by the notification of the Tahsildar confirming the Bhoodan declaration under sub-section (3) or sub-section (4) of Section 14, may within six months from the date of such notification institute a suit in the Civil Court having jurisdiction, to have the notification set aside and the decision of such court shall be binding on the Board and subject to the result of such suit, if any, the notification of the Tahsildar shall be final.

17. *Donation to be irrecoverable.*—Every donation of land in respect of which a Bhoodan declaration has been confirmed under sub-section (3) or sub-section (4) of Section 14, shall after the date of the notification under the said sub-sections, be irrecoverable.

18. *Lands vesting in Board not attachable.*—The lands vesting in the Board shall not be liable to attachment or sale in execution of any decree or order passed by a Civil Court against the Board.

19. *Lands donated prior to the commencement of the Act.*—(1) Where any land other than lands to which provisions of Section 15 apply has been donated for the purposes of the Bhoodan Yagna prior to the commencement of this Act, the Board shall prepare a list of all such lands showing therein:

(a) the area and other particulars of the land;

(b) the name and address of the owner who is the donor;

(c) date of donation;

(d) the nature of the right, title or interest in the land of the owner making the donation;

(e) if the land has been granted to any person in pursuance of the Bhoodan Yagna, the name of the person to whom the land has been granted;

(f) the date of the grant under clause (e); and

(g) such other particulars as may be prescribed.

(2) The list so prepared shall be forwarded to the Tahsildar of the Taluk in which the land is situate.

(3) On receipt of such list the Tahsildar shall publish the same calling for objection and make a summary enquiry as to the right, title and interest of the donor in respect of each such land.

(4) The provisions of Sections 14 to 18 shall apply in respect of all the donations of the said lands as they apply in respect of all donations of lands made after the commencement of this Act:

Provided that where a donation is confirmed by the Tahsildar the donation shall be deemed to have been confirmed with effect from the date on which the donation of land was made and for this purpose this Act shall be deemed to have been in force on such date.

(5) If any land of which the donation so received before the commencement of this Act has already been granted to any person in pursuance of the Bhoodan Yagna, it shall be deemed to have been granted by the Board to such person on the date on which such person takes possession thereof and the grant shall be subject to all liabilities to which any grants made by the Board in general shall be subject.

CHAPTER IV

DISTRIBUTION OF LAND

20. *Grant of land to landless persons.*—(1) Notwithstanding anything contained in any law to the contrary the Board or such other authority or person as the Board may with the approval of the Government specify either generally or in respect of any area, may, in the manner prescribed, grant lands which have vested in it to landless persons capable of cultivating the same personally.

(2) The grantee shall not have and shall not be entitled to claim any rights except as provided for in this Act.

21. *Conditions of grant.*—The person to whom land is granted under Section 20 shall be registered in the revenue records as a Bhoodan holder and shall hold the lands subject to the following terms and conditions, namely:—

(a) the holder shall be deemed to hold the land directly from the Government and shall be liable to pay the land revenue that may have been or may be assessed on such land;

(b) the rights of the holder shall, on his death, pass to his heirs;

(c) the holder shall not transfer any interest in the land;

(d) the holder shall not sub let the land;

(e) the holder shall not allow the land to lie fallow for a period in excess of two years;

(f) the holder shall pay the land revenue on the due date.

22. *Eviction of Bhoodan holder on breach of conditions.*—If any Bhoodan holder commits a breach of any of the conditions specified in clauses (a) to (f) of Section 21, the Tahsildar may, after such enquiry as he deems fit, determine the right of the holder and the land shall thereupon vest in the Government.

23. *Land held by Bhoodan holder not liable to attachment.*—The land held by a person as a Bhoodan holder shall not be liable to attachment or sale in execution of any decree or order passed by a Civil Court against him.

24. *Power of Board to allot the land for community purposes.*—(1) The Board may allot any land vesting in it for a community purpose or exchange any such land with other land or surrender it to the Government.

(2) The land allotted for a community purpose shall vest in the Government from the date of such allotment.

CHAPTER V.

MISCELLANEOUS

25. *Exemption from stamp duty and registration.*—The Bhoodan declaration made under Section 12 or the document evidencing the donation of land for the purposes of the Bhoodan Yagna made prior to the commencement of this Act or a grant of land made under Section 20 or deemed to have been made under sub-section (5) of Section 19 shall be and be deemed always to have been exempt from payment of stamp duty and from registration or attestation, any law to the contrary notwithstanding.

26. *Eviction of persons unlawfully in possession.*—Any person in possession of the land received in donation for the purposes of the Bhoodan Yagna on the date of the notification under sub-section (3) or sub-section (4) of Section 14 and any person who takes possession of any such land otherwise than in accordance with law may, on an application to the Tahsildar by the Board or the Bhoodan holder concerned, be evicted.

27. *Partition of holding.*—(1) If the land donated to the Board forms a part of a holding, the Board or the Bhoodan holder concerned may apply to the Tahsildar for possession and the Tahsildar, may notwithstanding any provision in any law to the contrary, partition the holding and demarcate the land and apportion the land revenue.

(2) If there are any arrears of revenue on a holding partitioned under sub-section (1), the Tahsildar shall determine the portion of the arrears due on the part of the holding donated to the Board and thereupon the Board and the Bhoodan holder shall be liable to pay the portion of the arrears so determined and notwithstanding anything contained in any law to the contrary, the Board or the Bhoodan holder shall not be liable for the arrears in respect of the remaining part of the holding.

28. *Regulations.*—The Board may, from time to time, with the previous sanction of the Government, make regulations consistent with this Act and any rules made thereunder,—

(a) for regulating its procedure and the disposal of its business;

(b) for the remuneration and the conditions of service of its employees;

(c) for the appointment of the sub-committees and for the delegation of powers to sub-committees and office bearers and individual members thereof;

(d) for any other matter arising out of Board's function under this Act for which it is necessary or expedient to make regulations.

29. *Power to make rules.*—(1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for—

(a) prescribing the area of land for purposes of clause (e) of Section 2;

(b) the matters relating to the establishment and constitution of the Board and the nomination and appointment of Chairman, members and of the Secretary thereof;

(c) powers and functions of the Board under Section 3;

(d) the form of Bhoodan declaration and the manner in which it shall be filed;

(e) the documents to be filed with the Bhoodan declaration;

(f) the manner of publication of the Bhoodan declaration;

(g) the nature, scopo and manner of the enquiry under Sections 13 and 19;

(h) the manner of filing the objections and their registration;

(i) the manner and mode of service of notice under this Act;

(j) the procedure to be followed in hearing and disposal of objections under Section 14;

(k) the procedure relating to confirmation or supersession of declaration;

(l) the matters relating to the manner and extent of the grant of land in pursuance of Section 20; and

(m) the matters which are to be and may be prescribed.

V. KRISHNAMOORTHI,

Secretary,
Legislative Assembly.

THE TRAVANCORE-COCHIN MALAYALA BRAHMIN BILL.

REPORT OF THE SELECT COMMITTEE.

The Select Committee to which the Bill was referred, have considered the Bill and now submit this their report with the Bill as reported by the Committee annexed thereto.

2. The Bill was published in the Gazette dated 17th August 1954.

3. The Bill was introduced in the Assembly on the 9th August 1954 and the motion for reference to the Select Committee was adopted on the 3rd February 1955.

4. The Committee considered the provisions of the Bill in the light of the action taken by the Government of India and the Parliament in codifying Hindu Law. The Hindu Marriage Act, 1955 has already come into force and the Hindu Minority and Guardianship Bill and the Hindu Succession Bill are pending before Parliament in different stages. In the light of the above facts the Committee considered that no useful purpose will be served by proceeding with the Bill in the present form.

However the Committee were of opinion that it is high time to confer on the members of the Nambudiri illom the right to claim partition and that for that purpose it would be necessary to enact into law the provisions of the Bill in so far as they relate to partition. Accordingly the Committee have modified the Bill by retaining only the provisions relating to partition and the necessary incidental and consequential provisions and omitting the other provisions of the Bill.

In modifying the Bill as stated above the following changes have been made by the Committee.

(i) The Bill has been renamed as the Travancore-Cochin Nambudiris Partition Bill. This is in consonance with the terminology adopted in the Hindu Succession Bill.

(ii) *Clause 2.*—The term 'nambudiri' has been so defined as to include within its scope all persons who are governed by the Cochin Nambudiri Act, 1114 and the Travancore Malayala Brahmin Act, 1106.

(iii) *Clauses 3 and 5.*—Clauses 28, 29 and 31 of the original Bill have been recast and adopted as Clauses 3 and 5 in the Bill. A modification made is with regard to claim of minor members. Sub-clause (3) of clause 3 lays down that no claim to separate from an illom made on behalf of a minor member

shall be allowed unless the court is satisfied that the separation would be to the benefit of the minor.

(iv) Clause 4 provides for compulsory partition in the case of a member who has changed his or her religion and fixes the share of such member.

A. J. JOHN,
Chairman of the Select Committee.

Trivandrum,
18th January 1956.

V. KRISHNAMOORTHI,
Secretary,
Legislative Assembly.

THE TRAVANCORE-COCHIN NAMBUDIRI PARTITION BILL.

(AS REPORTED BY THE COMMITTEE)

A BILL TO PROVIDE FOR PARTITION OF ILLOM PROPERTIES OF NAMBUDIRIS.

Preamble—WHEREAS it is expedient to provide for partition of illom properties of Nambudiries;

Be it enacted in the Seventh Year of the Republic of India as follows:—

1. *Short title, extent and application.*—(1) This Act may be called the Travancore-Cochin Nambudiri Partition Act, 1956.

(2) It extends to the whole of the State of Travancore-Cochin.

(3) It shall apply to all Nambudiris domiciled in the State of Travancore-Cochin and to all Nambudiris outside the State in respect of immovable property situated within the State.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "illom" means all the members of a Nambudiri joint family with community of property and includes a *mana*:

Explanation—A female shall on her marriage cease to be a member of the illom in which she was born and become a member of the illom of her husband;

(b) "minor" means a person who has not completed eighteen years of age;

(c) "Nambudiri" includes a Nambudiri as defined in the Cochin Nambudiri Act, XVII of 1114 and a Malayala Brahmin as defined in the Travancore Malayala Brahmin Act of 1106 (Act III of 1106).

3. *Right of member of illom to claim partition.*—(1) Any member of an illom, male or female, may claim to take his or her share of all the properties of the illom over which it has power of disposal and separate from the illom:

Provided that where a male member of an illom whose wife is also a member thereof claims to separate from the illom, he shall do so on behalf of himself and his wife and the shares of the husband and wife shall be allotted to them jointly; and save as provided in Section 4, neither the husband nor the wife shall be entitled to claim partition from the other.

(2) (a) A member of an illom separating from it under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division *per capita* were made among all the members of the illom then living.

(b) A husband and wife separating from an illom under the proviso to sub-section (1) shall be entitled to such share of the illom properties as would fall to them if a division *per capita* were made among all the members of the illom then living.

(3) No claim to separate from an illom made on behalf of a minor member shall be allowed by any court unless it is satisfied that such separation would be to the benefit of such minor.

4. *Partition on change of religion.*—(1) Any member of an illom who has changed his or her religion may claim, or be compelled by any other member of the illom, to take his or her share of the illom properties and separate from the illom.

(2) The member who claims or is compelled to divide from the illom under sub-section (1) shall be entitled to such share of the illom properties as would fall to him or her if a division *per capita* were made among all the members of the illom then living.

5. *Character of property taken on partition.*—The share obtained by any member separating from an illom under sub-section (1) of Section 3 or under Section 4 shall be the separate property of such member:

Provided that the share obtained by a husband and wife separating jointly under the proviso to sub-section (1) of Section 3 shall be taken by them with the incidents of illom property.

6. *Act supplemental to other laws.*—The provisions of this Act shall be supplemental to the provisions of the Cochin Nambudiri Act, XVII of 1114 and the Travancore Malayala Brahmin Act of 1106 (Act III of 1106).

V. KRISHNAMOORTHI,

Secretary,
Legislative Assembly.